

The meeting of the Washington Citizens' Commission on Salaries for Elected Officials was convened in Vancouver and brought to order by Vice Chair Hopkins on March 24, 2005 at 6:02 PM. Chair Byington asked Mr. Hopkins to chair the meeting as she had a throat problem that prevented her from speaking.

COMMISSION MEMBERS PRESENT

Ms. Alyea Mr. Baxter
Mr. Boggs Ms. Byington
Mr. Carlisle Mr. Holzmeister
Mr. Hopkins Ms. Hornbeck
Mr. Irwin Mr. Ryan
Dr. Schwartz Ms. Wicks

COMMISSIONERS EXCUSED

Mr. Doman Ms. Hanson
Ms. Hightower

COMMISSIONER UNEXCUSED

Mr. Blaney

Ms. Sayer reported that she had sent a letter to Mr. Blaney after the February meeting stating her concern that he might unknowingly forfeit his membership because of two consecutive unexcused absences. She stated that staff had not heard from Mr. Blaney about his attendance at the March 24th meeting and that she had no choice but to proceed with the process to replace him.

STAFF PRESENT

Ms. Pinero
Ms. Sayer

TESTIMONY BY ROB MCKENNA, ATTORNEY GENERAL

Mr. McKenna stated that his testimony would highlight the points he made in his response to the Commission's eight questions.

- The Attorney General's office has 1,100 employees and is the largest law firm in the state.
- His office represents the State of Washington.
- They typically handle 22,000 cases per year. Those cases have fiscal, policy, and human impacts. Many of their cases involve children.
- Much of their work is in the court room.
- The salary of the Attorney General is the bar for the other attorneys in his office.
- His office will be conducting a study of attorney salaries and will submit a request to the Legislature to increase the salaries for their attorneys and paralegals.
- His office needs good attorneys and it is difficult to compete in the market for them.
- His office provides support to county prosecutors when asked by the prosecutor or Governor to assist in a case.
- The Consumer Protection Division has two million hits per year on its website.
- His office provides client advice to state agencies.
- They also have an aggressive Risk Management Division.

Mr. McKenna concluded that it may be time for a COLA and possibly a cost adjustment for his position as well.

Commissioners' discussion with Mr. McKenna:

Ms. Hornbeck thanked Mr. McKenna for attending the meeting and for the information he provided about his position and the office of the Attorney General. She asked about the most challenging aspect of his job.

- Mr. McKenna responded that his father was in law enforcement and he remembers some of the difficult cases he handled. At the technical and emotional level, the most difficult cases are brought by groups advocating children and other state programs and policies. In terms of dollars those cases have the

largest impact.

Ms. Hornbeck inquired whether his office uses outside expertise.

- Mr. McKenna replied that they sometimes bring in special experts but try to use their own attorneys if possible.

Dr. Schwartz inquired whether he would be willing to give up his job as Attorney General for a large salary.

- Mr. McKenna replied that he loves his job and that community service is very important to him. He further stated that he is paying attorneys in his shop what he made in 1980 when he entered private practice. He is starting to lose good attorneys because of salary issues.

Mr. Carlisle asked Mr. McKenna about the size of his office.

- Mr. McKenna stated that they have 1,100 employees. Of that number 460 to 470 are attorneys. The rest are paralegals, legal assistants, investigators, and administrative staff.

Mr. Carlisle said that the appointed agency heads' salaries top out at \$170,000. Several years ago, the Commission approved a market increase for the Attorney General. He inquired whether Mr. McKenna was suggesting that the Commission grant another market adjustment.

- Mr. McKenna replied that yes, he was suggesting another market adjustment but not at the size of what was done earlier. He stated that the U.S. Attorney and Chief Justice of the Supreme Court both manage offices much smaller than his and his office is pretty far behind. An increase of 10% or less would at least catch up.

Mr. Hopkins asked Mr. McKenna, with respect to salary comparisons, to clarify what groups or positions are comparable and what percent is he seeking for his staff.

- Mr. McKenna replied that his office has not conducted the attorney salary study yet so he does not know, at this time, what the percentage might be. He would like them to be comparable to at least the county deputy prosecutors. His office lost an attorney to the Federal Trade Commission in Seattle because the salary was 30% higher. A practical consideration would be a 5% to 10% increase, which would boost morale considerably.
- He also stated that appropriate comparisons for his attorneys would be the salaries of other public law offices and starting private practice attorneys in larger law firms. The starting salary for attorneys in private firms is \$95,000 to \$125,000.
- With respect to his position, the Deputy Attorney General surveyed the larger law firms in the Seattle area and contacted U.S. Attorney's offices in the Western districts. He further stated that the position of state Supreme Court Justice would be a fair comparison.

Mr. Ryan stated that he had been on the Commission since 1999 and that was the year the Attorney General's office did the salary survey of the attorneys.

- Mr. McKenna stated that was true. His office had an agreement with the Governor to include the increases in the budget. In the Governor's budget, the increases were spread over two biennia but what actually happened was that they were appropriated for the first biennium but not the second.

Mr. Ryan asked if the state is not competitive with local public lawyers, does he petition the Legislature for an increase.

- Mr. McKenna replied that he did and that the attorneys are eligible for the COLA included in the

Governor's budget.

Mr. Ryan asked about the status of the attorneys in his office.

- Mr. McKenna stated that none are civil service; all serve at the pleasure of the Attorney General.

Mr. Ryan inquired whether they have a compensation plan specifically for their attorneys.

- Mr. McKenna responded yes. But they can't free up salary dollars by cutting staff.

Mr. Ryan asked if Mr. McKenna had formerly been on the King County Council.

- Mr. McKenna responded that he had and prior to that he was with the law firm of Perkins Coie.

Vice Chair Hopkins expressed his appreciation to Mr. McKenna for testifying before the Commission.

PRESENTATION BY CARY RANDOW, COMPENSATION MANAGER, DEPARTMENT OF PERSONNEL

Mr. Randow made a Power Point presentation about salary administration and compensation within state government. He provided a handout of exhibits showing the various compensation systems within state government.

Employee Groups – There are seven employee groups within the state system: Elected Officials, Appointed Officials, Exempt Management Service (EMS), Washington Management Service (WMS), Classified Non-WMS (both union represented and non-union represented), Legislative staff, and System 99.

Salary Setting Authority – For the elected officials, the salary setting authority is the Citizens' Commission. For the appointed agency heads, it is the Governor and/or certain boards and commissions. For EMS, it is generally an agency head but may be an elected official. For WMS, it is management or executives in state agencies or in the elected officials' offices. For classified non-WMS, it is the position's manager. In the Legislature, it is the Chief Clerk of the House or the Secretary of the Senate. For System 99, it is an appointed or elected official.

Comparison of the Work Scope and Responsibility of Legislator and EMS Positions

- o Knowledge and Skills – A legislator develops, collaborates, and provides support for law making. EMS positions develop and implement policy for the agency's mission.
- o Job Content – A legislator's knowledge is broad and often complex in its diversity but depth is lacking. They acquire depth over time. EMS employees have knowledge of technical and/or operational issues. They have depth and acquire breadth over time.
- o Interpersonal Skills – The highest level is required for both legislators and EMS employees. It is more critical for the effectiveness of a legislator.
- o Mental Demands – For a legislator, this factor is a key part of job effectiveness. They must balance policy to budget and constantly weigh tradeoffs in both the political and state services environment; they must be multi-dimensional. Legislators have less constraint on freedom to think. EMS employees deal with demanding real-time issues with varying levels of complexity. The environment may be single or multi-dimensional. An accounting of the political environment must be recognized. They typically operate within established policies and rules.
- o Accountability – Impact on End Results – The focus for the position of legislator is directed at the integration of statewide laws and their consequences. Impact on stakeholders and constituents is primarily via policy and taxation. That impact is typically more long-term and generally shared within the party. Budget responsibility is also shared. Management responsibility is more programmatic in nature. EMS employees are direct managers and are agency mission focused. Impact is typically real-time and owned. They have direct budget

authority and the ability to redirect resources. They typically manage an organization of 30+ staff and are accountable for effective employee relations.

- o Summary Assessment – Mr. Randow stated that while the work and work environment are different there are more job aspects that are like or similar than unlike or dissimilar.

Mr. Randow added that there are roughly 90 appointed agency heads, 2,800 EMS positions, 5,500 to 5,600 WMS civil service managers, and 55,000 classified state employees. System 99 covers the attorneys in the Attorney General's Office, the State Patrol, and the Office of Financial Management. The Executive Branch officials' exempt positions are also in System 99. Each elected official has his/her own salary compensation program or plan and sets the salaries of their exempt employees. For the appointed agency heads, the State Committee on Agency Officials' Salaries (SCOAS) sets the maximum allowable salary and the Governor fixes the salary within that amount.

Ms. Hornbeck inquired whether in WMS there is a direct correlation between a Willis point total and a place in a salary band.

- Mr. Randow stated that the Willis system used by the Department of Personnel was developed by Fred Owen. With respect to EMS positions, it is recommended but not required that agencies use the system to evaluate their positions. For WMS positions, agencies must use the evaluation system.

Mr. Hopkins noted that the bands for EMS and WMS appear to be the same.

- Mr. Randow replied that bands 1 through 4 are the same. WMS band 5 is for MDs. EMS also has a band for MDs as well as a special market rate band for investment and other specialized positions.

Mr. Hopkins asked whether a position in an elected official's office could be in EMS.

- Mr. Randow responded that it could be in EMS or System 99. Which system a position is placed in is up to the elected official. There are more pay options for positions in System 99.
- Mr. Randow also stated that both the Locke and Gregoire budgets contain a 3.2% COLA for the first year and 1.6% for the second year for both represented and non-represented employees. For teamsters, the COLA is 3.2% for the first year and 2.9% for the second year. He further explained that the COLA for the second year is non-renewable. The salary schedule would be increased by the COLA on July 1, 2006. If not funded in the 2007-09 biennium, it goes away, meaning that it doesn't go into the base and if it is not renewed state employees (both represented and non-represented) would have their salary reduced on July 1, 2007 by the amount of the COLA granted on July 1, 2006.

Mr. Hopkins stated that the Commission can't do that. It cannot reduce the elected officials' salaries.

Mr. Boggs noted that if the second year increase was not carried forward into 2007-09, it would mean a 1.6% decrease in pay.

- Mr. Randow stated that was true.

Mr. Hopkins inquired when the last general increase for state employees occurred.

- Mr. Randow stated that it was July 1, 2001. He further stated that Governor Gregoire's proposal is for 3.2% effective July 1, 2005 which will be added to an employee's base salary; this is a permanent increase. The Governor also proposes 1.6% effective July 1, 2006. That increase is not added to the base and goes away unless renewed by the Legislature. State employees have gone four years without an adjustment. He stated that typically a general increase is passed on to all state employees except elected officials. The WMS and EMS bands and the SCOAS maximums would be adjusted to reflect the increase.
- Mr. Randow referred commissioners to the Scope and Responsibility slides that show why the job of legislator is comparable to EMS positions. He stated that interpersonal skills are very important for legislators. He noted that EMS positions have a direct line of operation and that legislators' work is more

team oriented. He offered the following band placement: Band 2 for new legislators, Band 3 for more experienced legislators and committee chairs, Band 4 for the chairs of major committees such as transportation and appropriations, and Band 5 for legislative leaders. He stated that positions in EMS Band 5 include the Assistant Secretary of the Department of Transportation, two or three positions in the Department of Corrections, and four or five positions in the Department of Social and Health Services.

Mr. Carlisle inquired whether legislative positions should be put in a band and the salary adjusted to 70%.

- Mr. Randow responded that his comments referred to the scope of work.

Mr. Hopkins noted that Mr. Owen's report recommended a point value of 464 for legislators which would be in the middle of Band 1 with the salary adjusted to 70%. He inquired whether that was an appropriate way to look at it.

- Mr. Randow replied that it was part of comparing points and bands. The Department of Personnel doesn't use the original Willis system but a derivative of it.

Mr. Hopkins noted that the comparison then was not necessarily apples and apples. Also, Mr. Owen used other state legislatures as a comparison.

- Mr. Randow responded that the scales may be different but there is a relationship. It is not a problem to go off the band. He sees the relationship in the scope of responsibility of the jobs.

Ms. Hornbeck noted that the Commission has always considered the position of legislator as one group plus four leadership positions. It has not looked at setting salary setting variables in regard to legislator seniority and work assignments. Also, Mr. Owen wasn't directed to identify the difference between new and senior legislators. She feels more comfortable now that there is a strong comparison with EMS.

- Mr. Randow replied that if asked whether EMS is a good comparison, his answer would be yes. He stated that classified employees are 16 to 20% behind prevailing wages. He believes the best approach is to provide continual small adjustments and small market adjustments as needed.

Mr. Carlisle noted that he has heard comments that the Commission should consider granting the elected officials the same COLA that rank and file state employees receive.

- Mr. Randow responded that the Commission needs to do its job regardless of what the Legislature does for state employees. He noted that the new appointments made by the Governor place those individuals at the high end or maximum of their plateau.

Ms. Hornbeck inquired what sources the Department of Personnel uses. Do they look at the 13 comparable states as well as private and federal salaries.

- Mr. Randow replied that they look at cities and counties, public sector organizations such as the ports, private large corporations such as Boeing and Microsoft as well as smaller corporations. They also look at other states and the federal government. He noted that although there had not been increases for state employees, increases have been made in local government and that the state is now 15 to 20% behind local public sector jobs. This concerns him. He noted that in many cases, the positions are under the same pension plans.

Mr. Hopkins asked where a manager with a specific point value would be placed in a band.

- Mr. Randow replied that the Department of Personnel makes a recommendation but that market and peer positions influence agencies' decisions. He added that many WMS and EMS positions are at the top of their band and many classified employees are at Step K of their range.

Mr. Hopkins inquired about the similarity of WMS and EMS.

- Mr. Randow responded that they are similar. A salary adjustment by the Legislature will change the dollar values of the bands. The Department of Personnel may also add dollars to the minimum and maximum if needed.

Ms. Hornbeck asked if the COLAS are approved, how much behind will the EMS positions be.

- Mr. Randow responded that they don't survey EMS positions but he would surmise that they are about 20 to 30% behind.

Mr. Ryan inquired whether EMS was under the Department of Personnel's jurisdiction.

- Mr. Randow responded that it was.

Mr. Ryan asked about the appointed agency heads.

- Mr. Randow stated that was the responsibility of the State Committee on Agency Officials' Salaries (SCOAS).

Mr. Ryan noted that SCOAS uses the point factor process to set salary maximums. The Commission's process is different in that it doesn't set salary maximums.

- Mr. Randow responded that the list in his handout for the appointed agency heads includes Governor Locke appointees as well as new appointees and reappointments made by Governor Gregoire. The most recent appointments are at the maximum because the market is changing dramatically for key appointments.

Ms. Hornbeck noted that it also reflects the availability of people for the job.

- Mr. Randow noted that the Governor is the salary setting authority for the appointed agency heads and can set the salary anywhere within the plateau.

Mr. Carlisle inquired about changing the plateau maximum.

- Mr. Randow responded that SCOAS generally changes the maximum when the Legislature grants COLAS to classified employees. SCOAS may make other changes as needed. The trend is to pay at the top end of the plateau as it is difficult to attract good, key executives.

Vice Chair Hopkins thanked Mr. Randow for his presentation, stating that it was very informative.

PUBLIC TESTIMONY

John B, representing himself, testified and made the following points.

- He stated he would prefer to not give his last name.
- He is a state employee.
- He has been enlightened by what he heard during the meeting.
- The last salary increase he received was on July 1, 2001; four years ago.
- He provided a handout that compared increases received by legislators, a state worker, and the minimum wage.

Ms. Hornbeck stated that she appreciated his effort and asked whether he had looked at the Commission's

charge.

- John B responded yes, but that the Commission should look at a situation such as his where he is an average state worker who is at the top of his range and has not had an increase in four years.

Mr. Hopkins noted that it is difficult to get a sense of how much state employees salaries have gone up because of step increases.

- John B explained that his take home pay has actually decreased over the years due to increased healthcare costs. He does not have step information but suggested that it could be obtained from Mr. Randow.

Mr. Ryan inquired whether the “state worker” identified on the chart was himself.

- John B stated it was.

Mr. Ryan stated that none of the positions for which the Commission sets salaries have steps. He further noted that an informal study he had done showed that the elected officials’ salaries have increased at the rate of inflation and that a lot of state employees have seen salaries increase more than the 212% shown on John B’s chart due to promotions.

Present at the meeting and representing the Judiciary were:

- Superior Court Judge Robert Harris
- Judge C. C. Bridgewater, Court of Appeals
- Judge Leonard Costello, Superior Court Judges’ Association
- Judge Eileen Kato, District and Municipal Court Judges’ Association
- Janet McLane, Administrator for the Administrative Office of the Courts.

Judge Harris stated that the members of the Judiciary were present to respond to questions but not to make a presentation.

Vice Chair Hopkins stated that on behalf of the Commission, he wished to express appreciation for the diligence of the court system.

Ms. Hornbeck noted that the Commission received a letter from Judge Cozza of Spokane. Judge Cozza requested that salaries be rounded off to the nearest 100 dollars to make it easier for the payroll people to deal with.

Mr. Ryan stated that the Commission has received this same communication two other times and that he misses the logic of Judge Cozza’s letter.

- Ms. McLane responded that their payroll system can manage the current salary practice.

Mr. Irwin stated that he appreciates the Judiciary’s presence at Commission meetings.

WORK SESSION

Approval of Minutes

Motion by Mr. Baxter to approve the minutes of the February 24, 2005 meeting; second by Mr. Carlisle. The motion passed unanimously.

2005-06 Proposed Salary Schedule

Vice Chair Hopkins noted that the Commission would set the final salary schedule for 2005 and 2006 at its May

19th meeting. He opened the floor for discussion on the proposal.

- Ms. Hornbeck stated that she had had concerns about looking at federal judges as a benchmark. That was her reason for asking Mr. Randow if the Department of Personnel looked at federal jobs. He responded that they did and that makes it easier in her mind to use the federal bench. She was not sure whether the state was using federal data in EMS.
- Mr. Hopkins expressed his frustration in using EMS as a benchmark. Mr. Randow made a great presentation but he, personally, is still out in the desert with respect to assigning a salary for legislators in the band. He noted that legislators are paid pretty well according to the salaries in other states.
- Ms. Hornbeck asked staff to obtain clarification whether the tool used by Mr. Owen was the Willis system or something similar. She stated that it was important to compare apples to apples as much as possible.
- Mr. Hopkins stated he is frustrated. We have the point value but salaries are all over the map.
- Ms. Hornbeck observed that we need to take into consideration the kind of Legislature we want. The positions in the bands have a diverse degree of expertise. In looking at EMS, it appears that benchmark is as close as it can be. Internal relationship is important in the salary structure.
- Ms. Sayer noted that in placing positions in a band, there may be several positions that have the same point values but different salaries due to variables such as market, peer positions, recruitment or retention difficulty, specific position requirements, etc.
- Mr. Baxter noted that the Commission has no control over who is hired; there are no specific requirements for legislators, i.e. junior vs senior legislators, experience, et cetera.
- Ms. Byington stated that the Commission is responsible for determining the market rate for legislators from the various sources of information available. The analysis conducted by Mr. Owen provides helpful information; however, the comparison between the elected department heads and appointed department heads using the Willis evaluation system is much more obvious for those positions than for the legislators.
- Mr. Carlisle stated that he was going to a different topic. He wanted to talk about the Attorney General. He believes the position should be treated the same as the other Executive Branch positions. He discussed the Attorney General's suggestion that the position be compared to Supreme Court Justice. The question is whether to make a market adjustment to bring the position up to the same level as Supreme Court Justice. He believes the jobs are different but they must have similar backgrounds. The Attorney General has more office management responsibility but he also does court work. Mr. Carlisle recommended that the 5% differential between the levels of judges be left alone.
- Mr. Hopkins agreed with Mr. Carlisle's comments, stating that Mr. McKenna's written comments show he is satisfied with the salary but will have to increase the salaries of the attorneys in his office.
- Mr. Ryan agreed with Mr. Hopkins, stating that an increase of nearly \$30,000 was granted to the position of Attorney General in 1999. At that time, salaries of some attorneys in the office were higher than the salary of the Attorney General. He noted that some county and city prosecutors' salaries are higher than state attorneys. He also noted that the Attorney General for Alabama is highest paid in the country.
- Mr. Carlisle recommended that the Attorney General position stay 5% below Supreme Court Justice.

The meeting was adjourned at 8:47 PM

